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असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART-II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में पिन्स पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 30th November, 2007:—

I

BILL NO. LXII OF 2007

A Bill further to amend the Indian Penal Code, 1860.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2007.

Short title and
commencement.

(2) It shall come into force with immediate effect.

2. In section 279 of the Indian Penal Code (hereinafter referred to as the Code) for the words "with imprisonment of either description for a term which may extend to six months, or fine which may extend to one thousand rupees or with both" the words "with imprisonment

Amendment of
section 279.

of either description for a term which may extend to one year and with fine which may extend to five thousand rupees and for second or subsequent offence with imprisonment for a term which may extend to two years and with fine which may extend to ten thousand rupees" shall be substituted.

Amendment
of section
304A.

3. In section 304A of the Code for the words "with imprisonment of either description for a term which may extend to two years or with fine, or with both" the following shall be substituted, namely:—

"with imprisonment for a term which may extend to three years and fine which may extend to one lakh rupees:

Provided that if it is proved that the rash or negligent act was committed under the influence of alcohol, the punishment shall not be less than three years but may extend to five years and the fine shall not be less than one lakh rupees but may extend to five lakh rupees:

Provided further that notwithstanding anything contained in this Code or the Code of Criminal Procedure, 1973 or the Motor Vehicles Act, 1981 the offence under this section shall be non-bailable."

20 of 1974.
59 of 1988.

STATEMENT OF OBJECTS AND REASONS

It is horrible but true that not a single day goes without, a report in the newspaper about a mother or school child or a poor man crushed by a bus or some vehicle or other. Rash and negligent driving claims more than 60,000 innocent lives across the country every year. The blue line buses in the Capital city have become killer buses and are running amok on the streets of Delhi. These buses more often than not, are engaged in a race with each other trying desperately to stay ahead so that they can take more passengers. The drivers of these buses are always under stress as they run against time to cover maximum distance or trips during the day and in the process end with causing fatal accidents. Call centres' cab drivers are another culprits on the road as with a view to reaching on time during odd hours they drive these cabs at a very high speed resulting in accidents. Even the incidents of drunken driving in urban areas are rising menacingly. Drunken bus drivers and youngsters behave as monster behind the steering, as if there is no law to check them and rightly so in view of the weak provisions of law which hardly act as a deterrent.

When a vehicle moves down a person, the police starts a case under section 279 and 304A of the IPC which pertain to rash and negligent driving and causing death due to same. The offences under these sections are bailable offences and within hours of the accident the person is free and within a day or two he is again behind the wheel as if nothing has happened. Even the period of punishment under these sections is very less and that too is rarely awarded. IPC was enacted in the year 1861 when there were hardly any motor vehicles in the country. The absurdity of the law can be gauged from the fact that if you can drive and kill somebody, the offence is bailable and if you steal Rs. 10 from some one it is a non-bailable offence under IPC. Therefore, the present position of law does not act as deterrent for the offenders.

Recently, the Supreme Court while considering the increasing number of vehicular accidents resulting in death of a large number of innocent people has favoured that punishment under 304A for two year is grossly inadequate.

Therefore, it is high time that amendment be made in sections 279 and 304A of IPC by prescribing stringent punishment besides making offence under 304A non-bailable.

Hence this Bill.

MAHENDRA MOHAN

II

BILL NO. LX OF 2007

A Bill to prohibit the use of coercive methods such as, intimidation and harassment either verbal or physical against any person or his family for recovery of loan, by Banks, or their agents whether authorised or not and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment

1. (1) This Act may be called the Prohibition on use of Coercive methods for Recovery of Bank Loans Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) 'Bank' means any nationalized or private or foreign Bank and includes any financial institution authorised by RBI for carrying out banking operations and also their agents.

(b) 'family' includes mother, father, married and unmarried sisters and brothers and their families.

(c) 'prescribed' means prescribed by rules made under this Act.

3. No Bank or its agent whether authorised or not, shall resort to use of intimidation or harassment either verbal or physical against any person or his family for recovery of loan taken from any Bank.

Banks not to resort to intimidation or harassment for recovery of loan.

4. No representative of the Bank or its agent shall, for recovery of loans—

Bank not to make threatening calls or insult damage property of a person for recovery of loan.

(i) make any threatening calls or make false and misleading representation to any other person or his family;

(ii) insult any person or his family in public;

(iii) damage or take away any movable property of a person;

(iv) damage or forcefully acquire the immovable property of any person.

5. No Bank shall outsource its process of recovery of loans to any outside agency without the approval of the Reserve Bank of India.

Bank not to outsource loan recovery without RBI approval.

6. The Reserve Bank of India shall, from time to time, issue necessary guidelines for proper scrutiny of papers, etc. for disbursement of loan by Banks which shall be scrupulously followed by each Bank.

RBI to issue guidelines for scrutiny of papers before disbursing loans.

7. Whoever contravenes the provision of this Act and the rules made there under shall be punishable with imprisonment, which may extend to five years and also with fine, which may extend to five lakh rupees.

Penalty.

8. (1) Where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Offences by a company.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation:— For the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding
effect of the
Act

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not derogation of any other law for the time in force.

Power to make
rules

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Today, there is a cut throat competition among the Banks and financial institutions to increase their customer base, particularly, by giving loans on attractive terms. Day in and day out, hectic calls are made by the representatives of Banks of their agents to lakhs of persons offering loans for all kinds of requirements. Once a person accepts the offer and completes the deal, his ordeal begins. After this, there appear sequence of hidden conditions and charges which are not informed to the customers at the time of giving loan. If due to some genuine reasons, a customer fails to repay one or two installments of loan, the bank or its agent which were so soft while giving loan, change their colours and adopt all kind of illegal and harsh methods to recover loan. Though many of the Banks are doing a fair business and following the procedure established by law in case of default but there are Banks, which are giving birth to all kind of unpredicted procedures and methods in debt recovery leading to cases of intimidation and harassment. In normal course, if a customer is not paying his debt, proceeding against him may be initiated in debt recovery tribunal or courts instead of harassing him. In fact, in the era of outsourcing, Banks have also given the recovery process to some private companies, who for each recovery, get commission. More often than not the recovery agents and Banks are not at the same wavelength. These private companies often employ musclemen who threaten the customers and their families. These musclemen insult the customer in full public view and, at times, take away the car or the household item for which the loan has been secured and also make anonymous calls. Courts and RBI have, on several occasions, cautioned the Banks and their agents on such action in recovering loan. RBI has even issued a set of guidelines preventing Banks and their agents to resort to intimidation or harassment method in their debt collection efforts. But all this has not been able to curb the coercive methods by agents of the Banks adopted in loan recovery simply because. These guidelines are ineffective in the absence of any punishment for their violation. Therefore, it is high time that a law on the subject may be framed to save the innocent customers from the harassment and insult.

Hence this Bill.

MAHENDRA MOHAN

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matters will relate to details only, the delegation of powers is therefore of normal character.

III

BILL NO. LIX OF 2007

A Bill to provide for regulation and control of coaching centres providing coaching for various kind of entrance examinations for higher educational and professional course including medical and engineering education and for jobs in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment

1. (1) This Act may be called the Coaching Centres (Regulation and Control) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the State Government and the Central Government in all other cases;

(b) "competent authority" means any office or officer notified by the appropriate Government under Section 4 to perform functions assigned under this Act;

(c) "Coaching Centre" means any institution by whatever name called providing coaching or giving guidance for admission into higher education or any professional course including engineering or medical or for appearing in any examination conducted by appropriate Government or any private institution for the purpose of securing jobs;

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) With effect from such date as the Central Government may by notification in the Official Gazette appoint, no person or establishment shall run a coaching centre without prior registration with the competent authority.

Compulsory
registration
of Coaching
Centres.

(2) Any person or establishment running a coaching centre before the commencement of this Act shall apply to the competent authority within a period of thirty days from the date of commencement of this Act in such form and manner as may be prescribed.

4. (1) The appropriate Government shall, by notification in the Official Gazette, appoint a competent authority for the purposes of registration of coaching centres in each district with in its jurisdiction.

Procedure for
registration.

Provided that the appropriate Government depending upon the size and population of the district may appoint one authority for two or more districts.

(2) On receipt of an application for registration of coaching centre, the competent authority shall scrutinize the application and may call for such other information or document from the applicant as may be prescribed.

(3) The competent authority shall before registering any coaching centre, inspect the site of the centre to have the first hand information of the infrastructure available with the coaching centre and the compliance of the norms and standards fixed by the appropriate Government in this regard.

(4) The competent authority shall after being satisfied with the various requirements under this Act grant a registration certificate to the applicant in such manner and form as may be prescribed which shall be valid for three years.

(5) The competent authority may renew the certificate only after re-inspecting the coaching centre and fulfillment of requirements fixed in this behalf by the appropriate Government under this Act.

(6) The competent authority may refuse to register a coaching centre or renew its certificate if the Centre fails to comply with the norms and standards fixed by the appropriate Government.

Provided that in case of non-registration or non-renewal of certificate of a coaching centre, the competent authority shall record reasons in writing and communicate the same to the applicant.

(7) The competent authority shall take a decision on the application filed under sub-section (2) within a period of thirty days.

5. The appropriate Government shall,—

(a) fix the fee to be charged by the coaching centres for various programmes;

(b) prescribe minimum qualification for the faculty members for different courses;

Appropriate
Government
to prescribe
norms for
coaching
centres.

- (c) fix the teacher-student ratio for every coaching centre;
- (d) lay down norms for minimum infrastructure for starting and running coaching centre;
- (e) prescribe such other norms as may be necessary for the purpose.

Penalty.

6. Whoever contravenes the provisions of this Act and the rules made thereunder shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to twenty five lakh rupees.

Offences by a
Company

7. (1) Where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention was committed without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

*Explanation:—*For the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm,

Power to
remove
difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding
effect of the
Act

9. The provisions of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not derogation of any other law for the time being in force.

Power to make
rules.

10. The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Coaching Centres providing coaching to students for cracking various competitive examinations such as engineering, medical and civil services are doing big business now-a-days. Of late, their number has also increased to a very high level. Newspapers are full of advertisements of these coaching centres in order to attract maximum students. These centres charges a very hefty amount for various kinds of coaching programmes being run by them. Though there is no doubt that there are some very good coaching centres but many of these centres are fly by night operator who charge heavy money as fee but do not provide proper coaching nor do they have proper infrastructure for the purpose. These Coaching Centres fleece the students and their parents by giving lucrative offers for joining them. Similar is the case with the coaching centres providing coaching to lakhs of aspirants for various jobs in Government and Private Sector. As of now there is no law to regulate the functioning of these coaching centres.

Some of these centres are actually playing with the fate of lakhs of youth of the country. Therefore, time has come to regulate and control their activities in order to protect the interest of students aspiring to become professionals or secure jobs.

Hence this Bill.

MAHENDRA MOHAN

FINANCIAL MEMORANDUM

Clause 4 of Bill provides that the appropriate Government shall appoint competent Authority for the purposes of registration of coaching centres. The expenditure in respect of Union Territories shall be borne by the Central Government. It is expected that an annual recurring expenditure of rupees two hundred crore may be involved.

Non-recurring expenditure to the tune of rupees two crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is therefore of normal character.

IV

BILL NO. LXIX OF 2007

A Bill to provide for the compulsory supply of electricity to the katras and densely populated settlements located in the metropolitan cities and major cities of the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Electricity (Compulsory Supply to Katras and Densely Populated Settlements) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "densely populated settlements" means such settlements which are declared as densely populated settlements by the appropriate Government for the purposes of this Act.

(c) "residential or commercial areas" means densely populated areas located in metropolitan cities and major cities of the country;

(e) "prescribed" means prescribed by rules made under this Act.

3. (1) Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall ensure that sixty per cent of the total electricity generated under its territorial jurisdiction, including the electricity generated by the foreign companies, shall be supplied to the khatras and densely populated settlements located in the metropolitan cities and major cities.

Supply of electricity to khatras and densely populated settlements.

(2) The appropriate Government shall determine the quantum of electricity to be supplied to the metropolitan cities and major cities within its territorial jurisdiction in such manner as may be prescribed:

Provided that in the khatras and densely populated settlements the supply of electricity to the citizens living below poverty line shall be at half of the prescribed rate for six hour in a day.

4. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There is an acute shortage of electricity in the *katras* and densely populated settlements located in the metropolitan cities and major cities of the country. The citizens living in the *katras* and densely populated settlements have to face a lot of difficulties due to the shortage of electricity. During summer the situation becomes the worst. Due to non-availability of open spaces and parks nearby these *katras* and densely populated settlements, the citizens living there feel suffocated during failure of power. Due to non-availability of power their lives become hell, especially in the summer.

Therefore, it is proposed to make the supply of electricity compulsory in the *katras* and densely populated settlement located in the metropolitan cities and major cities of the country.

Hence this Bill.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill, provides that the appropriate Government shall supply electricity to the citizens living below poverty line in the *katras* and densely populated settlements for six hours a day at half of the rate. The expenditure in respect of Union Territories in this regard shall be borne by the Central Govt. The Bill, therefore if enacted, will involve expenditure from the Consolidated Fund of India. In the case of States this expenditure will be incurred from the Consolidated Fund of those States. It is estimated that approximately a sum of rupees nine crore will involve as recurring expenditure per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

V

BILL No. LXX OF 2007

A Bill to regulate the functioning of Private schools and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Private Schools (Regulation) Act, 2007..

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette appoint.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government.

(b) "Authority" means the Educational Authority constituted under section 3;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "Private Schools" means any non-aided school, whether recognized or not, which is not run by appropriate Government or its local authority or any other authority

Short title
extent and
commence-
ment.

Definitions..

authorized or sponsored by the appropriate Government and it includes, pre-primary, primary, secondary, higher secondary and senior secondary school, which imparts education or training below graduation level, but does not include any such institution which imparts technical education.

Constitution
of Education
Authority.

3. (1) The appropriate Government shall, by notification in the Official Gazette, establish an Authority under its territorial jurisdiction, to be known as the Educational Authority to regulate the functioning of private schools and conditions of service of teachers working in these schools.

(2) The Authority shall consist of—

- (a) the Chairperson, to be appointed by the appropriate Government;
- (b) such number of members not exceeding twelve but not less than to be appointed by the appropriate Government;
- (c) such other officers and staff to assist the Authority, as may be prescribed.

(3) The selection of the Chairperson and other members mentioned in sub-section (2) shall be made from amongst the persons having special knowledge and experience of at least twenty years in the field of education.

(4) The term of office and conditions of service of the Chairperson and members shall be such, as may be prescribed.

Functions of
Authority

4. (1) It shall be the duty of the Authority, subject to the rules made by the Central Government in this regard, if any, to regulate the functioning of private schools and service conditions of teachers under its jurisdiction.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority, may,—

- (a) prescribe the student-teacher ratio for each class;
- (b) fix the maximum limit of tuition fee that may be charged by the school for any particular class;
- (c) fix hours of working for teachers;
- (d) monitor funds collected by schools;
- (e) take such other measures as may be assigned to it.

Services
conditions of
teachers.

5. (1) The Authority may frame regulations to prescribe the minimum qualifications and other conditions of service for the recruitment of teachers in private schools.

(2) Notwithstanding anything contained in the regulations made in this regard, no teacher of a private school shall be dismissed or demoted, or terminated without prior permission of the Authority.

Salaries,
allowances
and other
facilities of
teachers

6. The salaries, allowances, medical facilities, pension, gratuity, provident fund and other facilities to be provided to the teachers of private schools shall not be less than those available to their counterparts in schools run by the appropriate Government.

Schools not
to levy fee or
other charges.

7. (1) No private school shall impose any fees or collect any other charges or receive any payment except those specified by the Authority.

(2) Each school shall take prior permission of the Authority before levying such fee or before collecting such charges.

Closing of
schools.

8. If the appropriate Government is convinced, after getting a report from the Authority that the managing committee of a private school has violated the provision

of this Act or any rule framed under it and that is proper to close down such school in the interest of education, then it may close down the school for such a period, as may be prescribed, after giving proper opportunity for explaining reasons against the proposed action:

Provided, that if such a school is a recognized private school, the appropriate Government may also withdraw its recognition.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulation private schools. Savings.

10. If any difficulty arise in giving effect to the provision of this Act, the Central Government may, by order published in the Official Gazette, such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing such difficulty. Power to remove difficulty.

11. The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There are many unaided private schools in the country. Running unaided private schools has become a business now-a-days. In many cases the motive behind this is to earn money rather than to provide quality education. These schools charge hefty tuition fees apart from imposing various other charges in the name of donation, building construction fund, computer fees, etc. Not only that, despite availing necessary tax benefit, these schools are not utilizing the money for the development of the schools. The teachers of these schools are paid paltry sum as salary and are not provided service benefits such as medical facilities, provident fund, etc. Even the teachers of these schools are retrenched or removed without assigning any reason. Female teachers are also exploited in different ways in these private schools. Education is not safe in the hands of these unscrupulous people. The system of functioning of these persons run of private schools is to charge heavy fees on the one side and to give very low salary to the teachers on the other and they are violating tax laws without any fear of penal action.

Therefore, it will be expedient to develop an appropriate system to monitor, regulate and control the growing commercialization of education in order to ensure quality education and to save the people from exploitation.

Hence, the Bill.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall establish an Education Authority to regulate the functioning of non-aided private schools under its territorial jurisdiction. The Bill, if enacted, will involve expenditure from the consolidated fund of India in respect of Union Territories. It is estimated that a sum of rupees one crore may involve as recurring expenditure per annum and about rupees twelve lakh may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules in consultation with the State Governments for carrying out the purposes of the Bill. Since, the matters about which the rules are required to be made related to details only, the delegation of legislation power is of normal character.

VI

BILL NO. LXXI OF 2007

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2007.
2. In the preamble to the Constitution the words "SOCIALIST, SECULAR" shall be omitted.

Amendment
of the
Preamble.

STATEMENT OF OBJECTS AND REASONS

The words secular and socialist were inserted in the preamble to the Constitution during emergency (1975 to 1977) when fundamental rights were suspended. The incorporation of these words therefore, escaped detailed scrutiny.

Bharat being an ancient nation with values much higher and all inclusive culture does not need 'isms' as guiding principles.

Moreover today the Governments are appointing Commissions and making special provisions for people of chosen religions even though provisions for minorities already existing in the Constitution. Thus a question mark has arisen on the word "SECULAR".

In the face of growing competition amongst the staunch socialist and communist regimes to obtain assistance from capitalists even at the cost of farmer's land, the word "SOCIALIST" has also lost significance.

Hence the need to drop the words SECULAR and SOCIALIST through this amendment.

SHREE GOPAL VYAS

VII

BILL No. LXXVII OF 2007

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2007.

Short title and
commence-
ment.

(2) It shall come into force, at once.

2. In the tenth schedule to the constitution, in para 6, in sub-para (1) before the existing proviso, the following proviso should be inserted, namely:—

Amendment
of the Tenth
Schedule.

"Provided that Chairman or the Speaker, as the case may be, shall have authority to disqualify a member, even if such member of the original political party, on account of suspension or expulsion of such member by such political party, ceases to be a member of such party".

STATEMENT OF OBJECTS AND REASONS

A member, who incurs disqualification under the Tenth Schedule and also commits acts of indiscipline, can be suspended or expelled by his original political party from its membership. In such an event his membership of the House remains intact. A petition to the Presiding Officer of the House also does not lie in view of the fact that the original political party has either suspended or expelled him from the membership of the House.

A political party whose member has betrayed it should not be rendered so helpless that if the party suspends or expells him, it can not invoke provisions of the Tenth Schedule and if it intends to invoke the provisions of the Tenth Schedule, treat him as its member and tolerate helplessly all the acts of indiscipline that such member may commit, in order that the party may be due to get him disqualified under the Tenth Schedule.

Hence the Bill.

SHANTARAM LAXMAN NAIK

VIII

BILL NO. LXXIV OF 2007

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

- | | |
|--|---|
| 1. (1) This Act may be called the Representation of the People (Amendment) Act, 2007. | Short title and
commence-
ment. |
| (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | |
| 2. In Section 8 of the Representation of the People Act, 1951 in sub-section (2), after clause (c), the following clause shall be inserted, namely,— | Amendment
of Section 8
of Act of
1951. |
| “(d) any law providing for banning the practice or encouraging or inducing others to practice or propagate superstitious beliefs.” | |

STATEMENT OF OBJECTS AND REASONS

Superstitious beliefs are prevailing in the country for the last several centuries. These beliefs have taken strong roots in the society and have done irreparable harm to it, particularly to the weaker sections. It was expected that as time passes, scientific temper in the minds of the people will increase and, people may refrain from resorting to unpleasant and crude methods to achieve their social and other objectives. Literacy is increasing among the people but, disbelief in superstitions has not diminished in the same proportion.

Literate people too, are found to be indulging in superstitions in quite an astonishing proportion.

It is unfortunate that several persons in public life in some form or the other practice superstitions. Although, religious practices or rituals stand on different footings, practicing of superstitions in the name of religion is dangerous. Well to do persons or others in the business community or the rich farming class at times may lose a few thousand rupees, but the poor, who practice superstitions in the name of religion suffer immensely.

Therefore, restraint has to be imposed on those who lead the society. Disqualifying those who seek to contest elections, is one way, of making the message, loud and clear.

Hence this Bill.

SHANTARAM LAXMAN NAIK

IX

BILL NO. LXXIII OF 2007

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2007. Short title and commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Representation of the people Act, 1951, in section 28A, the following proviso shall be inserted, namely,— Amendment of section 28A of Act of 1951.

"Provided that nothing in this section shall authorise the Election Commission to exercise any of the powers mentioned above with respect to any case or matter after the declaration of results, notwithstanding that any such case or matter was dealt by the Commission between the period of notification and the declaration of results."

STATEMENT OF OBJECTS AND REASONS

Section 28-A of the Representation of the Peoples' Act, 1951 reads as under:—

"The returning officer, assistant returning officer and any other officer appointed under this part and any police officer designated for the time being by the State Government for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the results of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission."

However, in many cases it has been the experience of various State Governments and other authorities that the Commission insists on exercising powers in cases dealt with by them during the election period which commences on the date of notification and ends on the declaration of results, even after the period is over.

If an officer is suspended during the period of elections, the Commission insists that all further proceedings shall be regulated under their directions. The State Government has no power to drop the proceedings or revoke the suspension, pending the disciplinary proceedings. The Commission thereby violate the rules framed by the Government to regulate service matters of the Government employees, for which powers stand vested in the Commission only during the election period.

Hence this Bill.

SHANTARAM LAXMAN NAIK

X

BILL NO. LXXV OF 2007

A Bill to amend the Right to Information Act, 2005.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Information (Amendment) Act, 2007.

Short title and
commence-
ment.

(2) It shall come into force with immediate effect.

22 of 2005.

2. In section 2 of the Right to Information Act, 2005 (hereinafter referred to as principal Act), in clause (j),—

Amendment
of Section 2.

(a) in sub-clause (i) after the word "records" the words "including the notings and remarks on files" shall be inserted.

(b) in sub-clause (ii) after the word "records" the words "including the notings and remarks on files" shall be inserted.

Amendment
of Section
12.

3. In section 12 of the principal Act, in sub-section (6), after the words "pursuing any profession", the words "or serving or retired including voluntarily retired officer from any of the services under the Government of India or the Government of a State" shall be inserted.

Amendment of
Section 13.

4. In section 13 of the principal Act, in sub-section (5), first and second provisos shall be omitted.

Amendment
of Section 15.

5. In section 15 of the principal Act, in sub-section (6), after the words "pursuing any profession", the words "or serving or retired including voluntarily retired officer from any of the Services under the Government of India or the Government of a State" shall be inserted.

Amendment
of Section 16.

6. In section 16 of the principal Act, in sub-section (5), first and second provisos shall be omitted.

Amendment
of Section 19.

7. In section 19 of the principal Act, in sub-section (10) the following proviso shall be inserted, namely:—

Provided that while deciding the appeal the Central Information Commission or the State Information Commission shall not call the officer to whom the appeal had been filed under section 19.

Amendment
of Section 20.

8. In section 20 of the principal Act,—

(i) in sub-section (1) for the words "penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees", the words "penalty of five hundred rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees and may also award punishment for a term which may extend to one year" shall be substituted.

(ii) after sub-section (2) the following sub-section shall be inserted, namely:—

"(3) where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the complaint or the appeal filed by the applicant is vexatious or malafide, it shall impose a penalty on the applicant which may extend up to two thousand rupees in the first case and may extend to rupees five thousand for second or subsequent cases."

Amendment
of Section 24.

9. In section 24 of the principal Act,—

(i) in the first proviso to sub-section (1), after the words "allegation of corruption", the words "concerning life and liberty of a person" shall be inserted.

(ii) in the first proviso to sub-section (4), after the words "allegation of corruption", the words "concerning life and liberty of a person" shall be inserted.

Amendment
of Section
26.

10. In section 26 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The appropriate Government shall, within three years from the commencement of this Act, establish a nodal agency for disseminating any information under this Act, from a single window for the convenience of the citizens."

STATEMENT OF OBJECTS AND REASONS

The Right to Information Act, 2005, was enacted as an extension of the Fundamental Rights under article 19 of the Constitution in the year 2005. The Act paves the way for access to information under the control of public authorities on payment of nominal fee and in a fixed time frame. The enactment to a large extent helped in making the affairs of the Government transparent and make the information in the government records available to citizens at large. But, certain shortcomings had been noticed in the implementation of the Act. The persons who fought for the right to know have protested on exclusion of the noting and remarks on files from public view. To make the things in Government transparent, the notings on files should be available to the citizens. Though CIC has ruled in favour of giving the file notings but the provision does not exist in the Act in view of the adverse opinion held by the concerned Ministry. Accordingly, the appropriate provisions have been proposed in the Bill.

As per the existing set-up, the Act shall not apply to certain intelligence and security organizations listed in the Second Schedule. But, exceptions have been made in respect of information pertaining allegation of corruption and human right violations. In this regards, it is proposed that exception pertaining to life and liberty of a person should also be made and the information in this regard should be provided by intelligence and security agencies. Similarly, there is also a proposal that a Information Commissioners should not hold the post. Accordingly the amendment has been suggested.

Also, the fine of Rs. 250/- per day is on lower side which should be raised to Rs. 500/- per day and, in addition, the Commission should have power to directly punish the violator by way of imprisonment. There is no provision for penalty on vexatious or malafide complaints in the Act. Instances have come to notice that, at times, the applicants file such complaints before the Central Information Commission or State Information Commission. There has to be provision for penalty for vexatious or malafide complaint or appear which has been appropriately proposed.

It has also been noticed that citizens are also facing problem in seeking information from various Departments as they have to move from one department to other department for seeking information. Therefore, there is a need for single window scheme for disseminating information under a nodal agency.

Hence this Bill.

KALRAJ MISHRA

XI

BILL NO. LXXXI OF 2007

A Bill to provide for the compulsory maintenance of food and potable water supplies for human consumption and fodder for the livestock of the farmers in drought affected areas by the Union Government with the co-operation of the Government of the concerned State and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Maintenance of Food, Potable Water and Fodder Supplies in Drought Affected Areas Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "drought affected area" means any area situated in any part of the country which has got below normal rainfall in any season of a calendar year and which in the

opinion of the Central Government has been affected by drought and declared, by notification in the official gazette, to be a drought affected area for such period as may be specified in the notification;

(b) "food" includes cereals such as wheat, maize, barley etc. rice, pulses and edible oils and fuel for cooking;

(c) "fodder" includes the dry and green fodder generally fed to the livestock by the farmers and others;

(d) "Government" includes both the Central and State Government;

(e) "prescribed" means prescribed by rules made under this Act.

3. The Central Government shall, with the assistance of the State Government in whose jurisdiction the drought affected area falls, maintain uninterrupted food supplies in such area for the inhabitants in such manner and for such time as may be prescribed.

Compulsory maintenance of food supplies in drought affected areas.

4. The Government shall maintain adequate supply of potable water through tankers or through other means as it may consider appropriate in the drought affected area for such period as may be prescribed.

Government to maintain supply of potable water in drought affected areas.

5. The Government shall maintain adequate supplies of fodder in a drought affected area by procuring fodder from other States in such manner and for such period as may be prescribed.

Compulsory maintenance of fodder supply in drought affected areas.

6. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds for carrying out the purposes of this Act.

Funds to be provided by the Central Government.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Savings.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Large number of areas in various parts of the country particularly in the States of Jharkhand, Bihar, Madhya Pradesh, Orissa, Andhra Pradesh, etc. are frequently affected by unprecedented drought and play havoc in such areas. The Palamu division in Bihar and Kalahandi in Orissa have become synonymous with drought. It has been observed that during the drought period the inhabitants do not have food to eat and water to drink for their survival resulting in their exodus. In many areas starvation deaths also occur. The worst sufferers in such time are the mute livestock. People leave them stray to fend for themselves and without fodder and water they ultimately die. The Governments at the Centre and State provide some sort of relief to the people of such areas but the mute animals remain uncared for. It is, therefore, necessary that the supply of food and potable water and also the fodder be maintained on priority and it should remain uninterrupted so that the people do not leave such places and the livestock too get its fodder and water for its survival.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that the Central Government shall provide adequate funds for the implementation of the Bill. The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. But at this stage it is not possible to estimate the exact amount likely to be involved. However, it is estimated that a sum of rupees ten crores is likely to be involved as recurring expenditure per annum.

It may also involve a non recurring expenditure of rupees fifty lakhs from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XII**BILL NO. LXXXII OF 2007**

A Bill to provide special educational facilities to the children of scavengers or safai Karamcharis who were in the past engaged in or employed for manually carrying human excreta in the country and for matter connected therewith.

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Educational Facilities for Children of Manual Scavengers Act, 2007.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "Attendance Authority" means Attendance Authorities appointed under section 7;

(c) "parent" in relation to any child of a scavenger includes a guardian and every person who has the actual custody of the child;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Scavenger" means a person who had been engaged or employed for manually carrying human excreta before the commencement of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

46 of 1993.

Survey to be conducted by appropriate Government.

3. It shall be the duty of the appropriate Government to conduct survey in the area under its jurisdiction to find out the children of scavengers and prepare a list of such children in such manner as may be prescribed, who are to be imparted education by such Government and shall cause the list to be revised at such intervals as may be prescribed.

Special educational facilities to children born of scavenger parents.

4. The appropriate Government shall provide following educational facilities to every child born of a scavenger parent, namely:—

(a) free education from school level to the post graduate level including higher medical and technical education;

(b) free hostel facilities, uniform, books, stationery, transportation and such other assistance and facilities as are required for the proper education of the child;

(c) monthly scholarships in deserving cases at such rates as may be prescribed while pursuing his studies.

Responsibility of Scavenger parent to his child to attend schools etc.

5. It shall be the duty of the scavenger parent of every child to cause the child to attend an approved school, college or institution, as the case may be.

Children of Scavengers not to be employed so as to prevent them from attending school etc.

6. No person shall employ a child of a scavenger in a manner which shall prevent the child from attending a school or educational institution.

Attendance Authorities.

7. The appropriate Government may appoint as many persons as it thinks fit to be Attendance Authorities for the purposes of this Act and may also appoint as many persons as it considers necessary to assist the Attendance Authorities in the discharge of their duties in carrying out the purposes of this Act.

Special provision for part time education in certain cases.

8. If the attendance authority is satisfied that the child of scavenger parent, due to economic or other circumstances connected with the family to which the child belongs is unable to attend the school or educational institution, it may, by order and subject to such conditions, if any, as it may think fit to impose, permit the child to attend any approved school or institution established as a part time institution.

Power to make rules.

9. The Central Government, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

For centuries the practice of employing persons for carrying human excreta on their heads or likewise is in existence in every part of our country. In fact it has become a hereditary profession and generation after generation the scavengers have no other option but to perform scavenging jobs for their subsistence. This has resulted in total illiteracy among the children of scavengers who if given proper chance can prove to be genius and outstanding students but they are forced to do the scavenging jobs which is a continuing stigma on our social fabric. To do away with this dehumanising practice the Government have got enacted a legislation title the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 which makes the employment or engagement of manual scavengers a punishable offence. But this is not enough. We have to remove the causes from their roots. We have to educate the scavengers particularly their children, majority of whom live below the poverty line. Their income is meagre and they struggle throughout their lives just to make both ends meet so they can not even think of primary education not to speak of higher education including technical education.

It is, therefore, necessary that the Central and State Government should provide free educational facilities including higher studies to the children of scavengers for their proper upliftment. They should be provided with books, uniforms, stationery, transportation and hostel facilities to help them in getting better opportunities of employment and raise their standard of living. Then only the abnoxious practice of manual scavenging can be wiped out from our country.

Hence this Bill.

S.S. AHLUWALIA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that appropriate Government shall conduct a survey to find out the children of scavengers who require education. Clause 4 provides for special educational facilities for the children of Scavengers. Clause 7 provides for the appointment of Attendance authorities. This Bill, if enacted brought into operation will involve a recurring expenditure of about one hundred crore rupees from the Consolidated Fund of India per annum.

A non recurring expenditure of rupees ten crores is also likely to be involved.

XIII

BILL NO. LXXXIII OF 2007

A Bill to provide for compulsory publication of retail sale price alongwith the advertisement of the consumer goods and for matters connected therewith.

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment

1. (1) This Act may be called the Consumer Goods (Publication of price with Advertisement) Act, 2007.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definition.

2. In this Act, unless the context otherwise requires,—

(a) “advertised product” includes all products and services which for sale are published or printed in newspaper, magazines or in any other form, broadcast or telecast through radio or television or through any other media or through verbal announcement made in the public in this regard;

(b) “Consumer goods” include all raw materials, agricultural commodities, finished goods of any kind or any other article and services intended for sale;

(c) “price” means the actual retail sale price of the product;